

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

_____)	
UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 1:11-CR-304
)	
JEFFERY ARMSTRONG)	Hon. Gerald Bruce Lee
)	
Defendant.)	
_____)	

DEFENDANT'S OPPOSITION TO UNITED STATES' MOTION IN LIMINE TO EXCLUDE
IRRELEVANT EVIDENCE

Defendant Armstrong, by and through undersigned counsel, hereby files this memorandum in opposition to the government's motion in limine to exclude irrelevant evidence.

- I. Given the posture of this case, it is premature for this Court to decide which evidence shall not be a part of the trial testimony

As this Court might appreciate, the real reason prompting this motion is that the government anticipates that Defendant Armstrong could make a strong witness, citing his treatment at the United Nations and/or National Labor Relations Board and his background as a September 11, 2001 "First Responder." To exclude these arguments is premature, at least at this time.

At the arraignment of Defendant Armstrong, the government provided approximately 55,000 pages of discovery documents. While defense counsel has been working diligently to review those documents, it is difficult to see in what manner a hostile working environment

and/or his status as a September 11th First Responder fits into the criminal case. However, defense counsel believes the Court should hear some evidence before prematurely ruling on this motion.

As the government lays out in its memorandum, defense counsel can be allowed to question government witnesses regarding racial bias, but is prohibited from making a broader inquiry into racial discrimination. The other case law states the same.

The government can always argue at trial that any questions on these issues amount to undue harassment. See Olden v. Kentucky, 488 U.S. 227, 231 (1988), U.S. Motion page 3. The Court, of course, has the ability to preclude undue harassment at trial.

Defendant asks that the Court defer ruling on this motion until such time as the record is more fully developed.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of August, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to counsel of record.

/s/

Andre M. Gregorian